

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

RH03026746

June 23, 2005

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING
REGARDING PROPOSED AMENDMENTS TO SECTION 8 LIMITED
ASSIGNMENT DISTRIBUTION PROCEDURE**

SUBJECT OF HEARING

California Insurance Commissioner John Garamendi will hold a public hearing to consider the proposed amendments to Section 8 Limited Assignment Distribution Procedure under the California Automobile Assigned Risk Plan (CAARP) Plan of Operations.

AUTHORITY TO ADOPT RATES AND PROCEDURES AND REFERENCE

The Commissioner will consider the proposed changes pursuant to the authority vested in him by California Insurance Code Sections 11620 and 11624. Government Code Section 11343(a) applies to this proceeding.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed amendments at the following date, time, and place:

**Date and Time: August 30, 2005
 10:00 a.m.**

**Location: California Department of Insurance
 45 Fremont Street
 22nd Floor Hearing Room
 San Francisco, California 94105**

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposed changes prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
riordanm@insurance.ca.gov
Telephone: (415) 538-4226
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
mohre@insurance.ca.gov
Telephone: (415) 538-4112
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on August 30, 2005**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1-2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor

300 Capitol Mall, Suite 1700
Sacramento, CA 95814
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST

Currently the CAARP Plan of Operations allows insurers to enter into agreements whereby one insurer (servicing company) will write the assigned risk business of another insurer (buy-out company) for a fee. The purpose of the proposed amendments is to update the current LAD procedure to be consistent with the LAD procedures in the California Low Cost Automobile Insurance Program Plan of Operations. Although the Plan sets forth general eligibility requirements for a servicing company, it does not provide specific premium to surplus ratios or certain other criteria or conditions under which certain criteria may be waived. Also, it does not address a process to monitor continuing eligibility or capacity or set forth assignment procedures if the appointment of a servicing carrier is terminated. The proposed amendments will clarify the various procedures under LAD.

Changes to Section 8 B. Limited Assignment Distribution Procedure
eligibility requirements are as follows;

- Once an insurer is appointed as a servicing company the insurer must continue to meet the service company requirements;
- If an insurer does not write 5% of the voluntary private passenger non-fleet car years in California but is a part of a group of insurers, the combined market share of the group may be used to meet the market share eligibility requirement;
- The surplus requirement has been increased from \$10,000,000 to \$25,000,000;
- The insurer will have to maintain a net premium to surplus ratio of 3 to 1;
- For three continuous years from the most current publication the insurer must have maintained a rating of A- or better from a recognized rating service with expertise in the insurance industry;
- The applicant must have been licensed and writing private passenger automobile insurance in California without restriction for at least three years;
- The Advisory Committee may consider a servicing company applicant that does not meet the market share requirement or the licensing and writing requirement. If the Advisory Committee approves such a servicing carrier it would then forward the recommendation to the Commissioner for approval;
- Eligibility criteria not subject to exception include the statutory capital and surplus requirement, the net premium to surplus ratio requirement, and maintenance of the required financial rating of A- or better from a recognized rating service with expertise in the insurance industry;

- Guidelines for Plan monitoring of service company eligibility and buy-out capacity and for terminating a LAD servicing company are specified in Sections 8.B.5 through 7;
- Companies with market shares greater than 5% may apply to the Advisory Committee and Commissioner for an exception to buy out as stated in Section 8.B.8;
- Section 8.B.15 provides guidance in situations where there is a conflict between the Plan of Operations and the buy-out company contract;
- Section 8.B has been updated editorially to be consistent, whenever possible, with the California Low Cost Automobile Program LAD procedure. New language has been introduced in Section 8.B12 allowing the buy-out company to transfer its Plan renewals upon expiration to the servicing company, provided the transfer is mutually agreed upon between the buy-out company and servicing company in the buy-out contract.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO ANY STATE AGENCY; FEDERAL FUNDING

The Commissioner has determined that the proposed regulation will result in no cost or savings to any state agency and no cost or savings in federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The agency is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

IMPACT ON SMALL BUSINESS

The matter proposed herein will affect insurance companies and therefore will not affect small business. (Gov. Code Section 11342.610(b)(2).

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

PLAIN ENGLISH

The proposed changes describing CAARP's proposals are in plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the proposed amendment in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to the contact person listed above. Further details of CAARP's rate application are on file with the Commissioner and available for review as set forth below.

FINAL STATEMENT OF REASONS

A final statement of reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the final statement of reasons will be made available for inspection and copying once it has been prepared. A copy of the final statement of reasons will also be posted on the Departments web site.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, Initial Statement of Reasons, and proposed text is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at www.insurance.ca.gov.

AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the Department amends the proposed regulations with changes that are sufficiently related to the original text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

JOHN GARAMENDI
Insurance Commissioner

Dated: _____, 2005

By: _____/s/_____
Mike Riordan
Staff Counsel